



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220803-0169]

RIN 0648-BL57

Fisheries of the Northeastern United States; *Illex* Squid Fishery; Revised 2022

Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is increasing the specifications for the 2022 *Illex* squid fishery.

This rule is required to ensure that the 2022 specifications are based on the best scientific information available. This rule is also intended to inform the public of the changes to the specifications for the remainder of the 2022 fishing year.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], through December 31, 2022.

ADDRESSES: Copies of the revised specifications, including the Supplemental Information Report, and other supporting documents for the action, are available upon request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. These documents are also accessible via the Internet at <http://www.mafmc.org>.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Policy Analyst, (978) 281-9150.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council manages the *Illex* squid fishery under the Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP). Section 302(g)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) states that the Scientific and Statistical Committee (SSC) for each regional fishery management council shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch (ABC), preventing overfishing, ensuring maximum sustainable yield, and achieving rebuilding targets. The ABC is a level of catch that accounts for the scientific uncertainty in the estimate of the stock's defined overfishing level (OFL). The regulations implementing the MSB FMP require the Council's MSB Monitoring Committee to develop specification recommendations for each species based upon the ABC advice of the Council's SSC. The regulations at 50 CFR 648.22(e) allow the Regional Administrator, in consultation with the Council, to adjust specifications during the fishing year.

At its March 2022 meeting, the Council's SSC reviewed preliminary work by its *Illex* Squid Working Group and concluded that the species continues to be lightly exploited and the fishery footprint is small relative to the entire management unit. The SSC recommended increasing the 2022 ABC from 33,000 mt to 40,000 mt. The Council recommended this specification adjustment at its April 2022 meeting and requested that NMFS use its in-season authority to increase the 2022 ABC and also adjust the closure threshold from 94 percent to 96 percent. The Council recommended a 96-percent closure threshold given improved reporting appears to have enabled NMFS to more effectively monitor the fishery in recent years and take action to close the fishery when necessary without overages, and it is expected that the smaller closure threshold should still avoid exceeding the ABC.

On May 10, 2022, we published *Illex* squid specifications for 2022 (87 FR 27952), and the National Environmental Policy Act (NEPA) analysis for that rule considered a range of ABCs from 18,000-40,000 mt. The final rule adopted an ABC of 33,000 mt for 2022. The revised specifications implemented by this final rule increase the 2022 *Illex* squid ABC to 40,000 mt, which was included and analyzed during the development of the original 2022 specifications.

Revised Specifications

We are implementing the revised 2022 specifications recommended by the Council and its SSC. The Council recommended that the status quo discard rate of 4.61 percent be reduced from the ABC, which results in a DAH amount of 38,156 mt for 2022 that would be maintained for the 2022 fishing year. These revised specifications will increase the 2022 commercial quota by implementing a 38,156-mt domestic annual harvest (DAH), an increase of 21 percent. Table 1 summarizes the recommended changes to the revised 2022 *Illex* squid specifications. Additionally, the *Illex* fishery closure threshold will change from 94 percent to 96 percent.

Table 1 – 2022 *Illex* Squid Specifications in metric tons (mt)

	Current	Modified
OFL	Unknown	Unknown
ABC	33,000	40,000
Initial Optimum Yield	31,478	38,156
DAH	31,478	38,156

Regulatory Clarifications

This action also includes corrections to existing regulations to correct the title of the Regional Administrator in the Tier 1 longfin squid vessel permit regulations, and to remove an outdated requirement for chub mackerel that expired on December 31, 2020,

from the vessel trip report regulations. These corrections are being implemented under the authority of section 305(d) of the Magnuson-Stevens Act.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the MSB FMP, the national standards and other provisions of the Magnuson-Stevens Act, and other applicable law.

Pursuant to section 6 Executive Order 12866, the Office of Management and Budget has determined that this rule is not significant.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

This final rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

The Assistant Administrator for Fisheries, NOAA, finds it is unnecessary and contrary to the public interest to provide for prior notice and an opportunity for public comment, pursuant to 5 U.S.C. 553(b)(B). Additionally, the Assistant Administrator finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay of effectiveness period for this rule. This action increases the 2022 specifications (*i.e.*, annual catch limits) for the *Illex* squid fishery based on new information, which is authorized pursuant to our regulatory in-season authority at 50 CFR 648.22(e). Implementing a 40,000-mt ABC was anticipated during development and implementation of the original specifications action (87 FR 27952, May 10, 2022), as well as at the April 2022 Council meeting. Where the public has had an opportunity to review, and comment on, a range of specifications that

included the amount considered in this action, a delay in its effectiveness from prior notice and comment would not serve any legitimate purpose, while unnecessarily disadvantaging fishermen who wish to take advantage of the fishing opportunity that this action provides with increased quotas. A delay would be contrary to the public interest for this loss of potential economic opportunity, and it could also create confusion in the *Illlex* squid fishery. This rule is being issued at the earliest possible date where we only received the Council's Supplemental Information Report for this action on June 24, 2022. The revised specifications increase the quota and allow this predominantly summer fishery to benefit from the quota increase and achieve optimal yield. This rule should be effective as soon as possible to fully realize the intended benefits to the fishery.

Furthermore, requiring a 30-day delay before this rule becomes effective does not provide any benefit to the regulated parties or the public. Unlike actions that require an adjustment period to comply with new rules, *Illlex* squid fishery participants will not be required to purchase new equipment or otherwise expend time or money to comply with these management measures. Rather, complying with this rule simply means adhering to the higher (less restrictive) catch limits set for the remainder of the *Illlex* squid fishing year. A 30-day delay could result in the fishery reaching the current lower harvest limit before the new higher limits become effective. This would trigger a disruptive closure, followed by a reopening of the fishery after the 30-days pass to allow the fishery to reach the new, higher limit, which would result in an inefficient, costly burden on the fishery, particularly with the current high price of fuel, with no apparent environmental or economic benefit. Fishery stakeholders have been involved in the development of this action and are anticipating this rule. Therefore, there would be no added benefit to delaying the implementation of these specifications. For these reasons, a 30-day delay in effectiveness would be contrary to the public interest. As a result, we are waiving the requirement.

Therefore, the Assistant Administrator finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness and these specifications shall be made effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Fishery closures and accountability measures

Dated: August 3, 2022.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.4, revise paragraph (a)(5)(i)(A)(I) to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(5) * * *

(A) * * *

(I) *Tier 1 longfin squid moratorium permit.* Beginning in February 2019, the Regional Administrator shall automatically issue a Tier 1 longfin squid moratorium permit to any vessel that is issued a longfin squid/butterfish moratorium permit or eligible to be issued such a permit held in confirmation of permit history (CPH) during calendar

year 2018 that meets the eligibility criteria in this paragraph (a)(5)(i)(A)(I). To be eligible for a Tier 1 permit, a vessel must have been issued a valid longfin squid/butterfish moratorium permit and landed more than 10,000 lb (4,536 kg) of longfin squid in at least one calendar year between January 1, 1997, and December 31, 2013. Fishing history, including for a permit held in confirmation of permit history, can be used by a vessel to qualify for and be issued a tier 1 longfin squid moratorium permit, provided the Regional Administrator has determined that the fishing and permit history of such vessel has been lawfully retained by the applicant. Landings data used in this qualification must be verified by dealer reports submitted to NMFS. A vessel that was not automatically issued a Tier 1 longfin squid moratorium permit may apply for such a permit in accordance with paragraph (a)(5)(i)(B) of this section.

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3. In § 648.7, revise paragraph (b)(1) introductory text to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

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(b) * * * (1) *Fishing Vessel Trip Reports*. The owner or operator of any vessel issued a valid permit, or eligible to renew a limited access permit under this part must maintain on board the vessel, and submit, and accurate fishing log report for each fishing trip, regardless of species fished for or taken, by electronic means. This report must be entered into and submitted through a software application approved by NMFS.

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4. In § 648.24, revise paragraph (a)(2) to read as follows:

§ 648.24 Fishery closures and accountability measures.

(a) * * *

(2) *Illex*. NMFS shall close the directed *Illex* fishery in the EEZ when the Regional Administrator projects that 96 percent of the *Illex* DAH is harvested. The

closure of the directed fishery shall be in effect for the remainder of that fishing period,
with incidental catches allowed as specified at § 648.26.

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